IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09/08/2004

CORAM
THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.17175 of 1998

Pushpavalli .. Petitioner

-Vs-

1. The District Collector
Tirunelveli
2. The Special Tahsildar
(Adi-Dravidar Welfare)
Ambasamudram.
3. V.Marimuthu
4. A.Pannerselvam
5. Lakshmi
6. Chinnathai
7. Pichammal
8. Sellammal
9. Velammal
10.Shanthi
11.Valli
12.Gandhimathi
13.Muragammal
14.Arumugavadivu
15.Komathi
16.M.Saraswathi
17.Selvamani
18.Subbammal
19.Sornamani
20.Eswari
21.M.Chandra
22.S.Velayutham
23.Kalyani
24.A.Manivannan
25.Ramalakshmi
26.Ulagammal
27.Ilangavathi
(RR3 to 27 are impleaded
as per order of Court
dated 25.4.2001 in
WMP 6923/01) .. Respondents

This writ petition is filed under Article 226 of the Constitution of

India praying for issuance of a writ of certiorari calling for the records relating to the order passed by the District Collector, Tirunelveli in Na.Ka.Pal/72470/97, dated 8.5.1998 and the consequential publication made in Tirunelveli District Gazette dated 15.5.1998 in respect of S.No.354/2A too an extent of 066.5 hectares in Keela Ambasamudram Village, Ambasamudram Taluk, Tirunelveli District.

!For Petitioner : Mr.P.Peppin Fernando

^For Respondents : Mr.M.Mahalingam
Government Advocate

:ORDER

The petitioner herein seeks an order of writ of certiorari to quash the order passed by the first respondent namely the District Collector, Tirunelveli, dated 8.5.1998.

2. From the affidavit filed in support of the writ petition and from the submissions made by the learned Counsel for the petitioner, it could be noticed that the petitioner is the owner of 0.66.5 Hectares in S.No.354/2A in Keela Ambasamudram Village, Ambasamudram Taluk, Tirunelveli District. The respondent was proceeding for acquiring the said land under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act 1978. The second respondent Tahsildar sent a notice under Rule 13(1) of the said Act to the petitioner on 16.6.1997. The petitioner sought for time for filing objections. The second respondent granted the same. Objections were filed on 7.7.1997 for acquisition of the land. Thereafter, the petitioner did not receive any information from the second respondent. But, the petitioner received a communication in Na.Ka.Pa.1/72470/97 dated 8.5.1998 stating that the acquisition would be published in the Gazette. Accordingly, on 15.5.1998, the publication was made under Sec.4(1) of the said Act acquiring the said land. Thereafter, the second respondent sent a communication dated 5.10.1998 calling upon the petitioner to give her objections if any regarding the publication made. The petitioner gave an objection asking for one month's time. Then, the second notice was issued for hearing on 30.10.1998. The said acquisition proceedings were entirely invalid for the reason that the petitioner was not served with the copy of the report alleged to have been sent to the first respondent by the second respondent under Sec.4(2) of the Act. Had it been served, she would have raised all her objections. By not serving, the opportunity for raising objections was denied. The first respondent did not hold an enquiry before passing any order on 8.5.1998. If an enquiry was actually conducted, the petitioner would have submitted the objections and would have convinced the first respondent. The husband of the petitioner was a practising Doctor at Ambasamudram, and they have decided to put up a hospital in that place. The petitioner sent an application for construction of the building, and the plan was rejected. Hence, the building could not be constructed. In view of the proceedings pending with the respondent, the proposal for construction of the hospital was deterred. Under such circumstances, the order of the first respondent has got too be quashed by way of writ of certiorari.

3. This Court heard the learned Counsel for the State. He reiterated the contents found in the counter filed originally to this writ petition.

4. After careful consideration of the rival submissions made, this Court is of the considered opinion that this writ petition requires a dismissal in the hands of this Court.

5. It is not in controversy that the petitioner owns lands to an extent of 0.66.5 Hectares in S.No.354/2A in Keela Ambasamudram Village, Ambasamudram Taluk. The second respondent, the Special Tahsildar (Adi-Dravidar Welfare), Ambasamudram, was delegated with the powers of the Special Tahsildar, and he has issued a notice on 16.6.1997. It is also not in dispute that the said notice was served on the petitioner, and the petitioner also gave a detailed objection on 7.7.1997. Following the same, according to the department, an enquiry was conducted, which resulted in Sec.4(1) notification on 8.5.1998, and it was published in the Gazette on 15.5.1998. At this juncture, the contention of the petitioner's side that no opportunity was given before the enquiry was conducted cannot be countenanced, for the simple reason that after the issuance of Sec.4(1) notification, the second respondent had sent a communication dated 5.10.1998 calling upon the petitioner to give her objections. Even from the averments in the writ petition, it is clear that the petitioner gave an objection asking for one month's time, which was also followed by the second notice. Having failed, now the petitioner cannot be permitted to say that no opportunity was given by the department. Only following an enquiry, the order under challenge dated 8.5.1998 came to be passed.

6. It is pertinent to point out that the petitioner has also participated in the proceedings as to the passing of the award. The learned Counsel for the respondent State would submit that after the initiation of the proceedings as to the passing of the award of compensation and after the possession of the property was taken over, the petitioner has filed this writ petition. All the above would be clearly indicative of the fact that the petitioner was given sufficient opportunity by the second respondent at the time of initiation of the enquiry and after the issuance of Sec.4(1) notification. In such circumstances, this Court is of the firm opinion that this writ petition is bereft of merits, and it warrants a dismissal.
7. In the result, this writ petition is dismissed. No costs.

Index : yes
Internet: yes
To:
1. The District Collector
Tirunelveli
2. The Special Tahsildar
(Adi-Dravidar Welfare)
Ambasamudram.

nsv/